United States Department of Agriculture | Forest Service | Region One | 200 East Broadway, P.O. Box 7669, Missoula, MT 59807

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Subject: 1570 (215) A&L - ARO Letter - Rat Creek Salvage DN - Beaverhead-Deerlodge NF - Native Ecosystems Council & Alliance for the Wild Rockies - 09-01-00-0065

To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Sara Jane Johnson, on behalf of the Native Ecosystems Council and the Alliance for the Wild Rockies, protesting the Rat Creek Salvage Decision Notice signed by the Forest Supervisor on the Beaverhead-Deerlodge National Forest (BDNF).

The Forest Supervisor's decision adopts Alternative 2 (the Proposed Action) as described in the Rat Creek Salvage environmental assessment (EA). The selected alternative includes the salvage harvest of approximately 1,652 acres of dead and dying trees within the Rat Creek Wildfire perimeter, reforestation of the harvest units through natural regeneration, supplemental planting to maintain the pre-fire mix of tree species, and sanitation of dwarf mistletoe infected trees to reduce disease infection in the new forest stands. Harvest activities include approximately 7 miles of temporary road construction and approximately 3 miles of existing road reconditioning for log hauling. The temporary roads will be obliterated upon completion of harvest operations. The selected alternative will supply an estimated 27,000 CCF of sawtimber and non-sawtimber products to area mills. The Regional Forester has granted approval of harvest units larger than 40 acres.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and the decision are in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the appellants' objections and recommended changes, has been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The appellants request that the decision to implement the Rat Creek Salvage Project be remanded. The appellants allege violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Appeals Reform Act (ARA), and the Administrative Procedures Act (APA). An informal meeting was held but no resolution of the issues was reached.

ISSUE REVIEW

Issue 1. The Forest Service failed to evaluate the impact of the large openings on wildlife that will be created with the Rat Creek Salvage Project.

Response: The Forest demonstrated appropriate consideration of both the National Forest Management Act (NFMA), and the Forest Plan standard related to the maximum size of openings (EA, p. 4). The Forest also considered an alternative to limit harvest units to 40 acres or less, but eliminated it from detailed study in part because the analysis did not indicate a need to limit harvest unit size to protect resources, and the existing harvest units were considered dead and dying (EA, p. 14). Although not required by Forest Service Manual direction (FSM 2400, Chapter 2470, R1 Supplement 2400-2001-2) because the large openings were caused by natural catastrophic events including fire, and insect and disease attacks, the Forest requested and received approval by the Regional Forester to harvest units exceeding 40 acres in size (DN, p. 6; and PF, C1-08).

The EA (p. 66) provided an analysis of the effects of salvage harvest units larger than 40 acres to wildlife. The overall finding was "that additional effects on wildlife and wildlife habitat due to unit sizes larger than 40 acres is minimal, and would not effect (sic) the ability of species to occupy the area or re-establish when habitat develops". This finding considered three points: 1) forested cover had been largely removed as a result of the Rat Creek Wildfire; 2) riparian conservation areas and unburned forests would continue to provide the primary remaining source of forested cover; and 3) salvage units would supply islands of unburned trees.

As part of the environmental analysis for wildlife, the Forest evaluated the effects that large openings would have on snag habitat. Forest Plan Wildlife Standard 3 (BDNF FP p. 48) says that mechanical vegetation treatments will: 1) retain all snags greater than 20" dbh (except for hazard trees); 2) not reduce the number of snags greater than 15.0" dbh in treatment units below the levels shown in the Table 12, calculated as an average for the total treatment unit acreage in a project area. This calculation allows variability among treatment units which produces a more natural clumpy distribution; 3) if there are insufficient snags in treatment units, live trees in the same size class must be retained and counted towards the snag requirement. These would be in addition to any requirements of Standard 4; 4) these per acre requirements do not apply to the treatment units if analysis shows the levels of snags will be met for the project area as a whole; and 5) if, in the project area as a whole, there are insufficient live trees and/or snags greater than 15.0" dbh, the standard is deemed complied with by retention of the existing live trees and/or snags greater than 15.0" dbh in the treatment units. Forest Plan Wildlife Standard 4 says do not reduce the number of live trees greater than 10.0" dbh per acre in regeneration harvest treatment units (to provide future snags) below the levels shown in Table 13.

The importance of snag retention was considered by the Acting Forest Supervisor in making his decision (DN p. 8). He concluded the project had been designed with the importance of snag retention in mind, since the project would retain all live and dead trees larger than 15.0 inches dbh unless they are a safety hazard to harvest operations. A key factor was that the salvage harvest would occur on only 6 percent of the 26,000 acre Rat Creek Wildfire. Leaving the remainder of the wildfire area well stocked with snags.

The Rat Creek Fire created an estimated 25,600 acres of habitat available to black-backed woodpeckers. Over 23,900 acres (93 percent) of this habitat is expected to persist (un-salvaged) and be widely distributed following implementation of the selected alternative (EA, p. 48). The Acting Forest Supervisor recognized these effects and weighed them appropriately with other

factors in reaching his decision (DN, p. 8). I have reviewed the biological evaluation and the supplement to the biological evaluation. I find them adequate and consistent with Forest Service policy. The biological evaluation found that implementation of the project "may impact individual black-backed woodpeckers, but would not threaten the viability of the black-backed woodpecker nor cause a trend toward federal listing" (EA p. 48).

Compliance with Forest Plan wildlife standards is found in the *Rat Creek Salvage Sale Biological Assessment/Biological Evaluation /Wildlife Specialist Report* (Kozlowski 2009) in the project file.

Issue 2. The Forest Service failed to evaluate the disturbance impacts of the proposed project on wildlife as indicated by elk, an MIS for the Beaverhead-Deerlodge National Forest.

Response: Newly constructed roads will be temporary and obliterated following completion of unit harvest operations (DN, p. 5). The expected activity period for logging is 2009 through 2011 (EA, p. 29). So the possible displacement period will be much less than 10 years. Three miles of existing roads would be reconditioned to access harvest units, and following harvest, the roads would again be closed. The EA (p. 62) disclosed that even without harvest hiding cover is limited because of the loss of canopy and understory vegetation from the wildfire. The harvest will not change the amount of hiding cover left in the burn area. Effects to elk security are limited to temporary disturbances from motorized equipment in areas that are moderately roaded. Changes to public access would not occur. Elk security habitat would not be reduced because no new system roads would be constructed and temporary road will remain closed to public motor vehicle use (EA p. 62).

Though hiding cover is limited across the burn perimeter as a result the 2007 fire, security habitat (as well as additional forage) will be provided throughout the burn in areas that are largely unroaded, or infrequently accessed by motor vehicles. Figure 6 on page 63 of the EA demonstrates that the burn perimeter will remain largely unavailable to motorized use and continue to provide secure habitat for elk. Thus, vulnerability across the hunt unit will remain in its current condition. No permanent roads will be developed for this project. Consequently there will be no change in the existing condition.

It is quite evident the Acting Forest Supervisor not only considered but provided strong rationale on his consideration of the project effects to elk habitat and security (DN/FONSI, p. 15). He concludes effects to elk security would be limited to temporary disturbances from motorized equipment and harvest activities in areas that are already moderately roaded and overall elk security habitat would not be reduced because open road density will not increase and public use would not be permitted on opened roads. Disturbances during periods of mechanical operations associated with salvage logging would be limited to short term changes in daily movements through and around proposed harvest units.

I conclude the selected alternative complies with Forest Plan direction, including goals for elk security, and the EA analyzed and disclosed the effects of the proposed activities on elk security, in compliance with NEPA

Issue 3. The information provided in regards to the second goshawk monitoring program on the Beaverhead-Deerlodge Forest by Clough (2000) [summarized in Appeal Appendix C, Table 2-4] clearly conflicts with claims made in the Rat Creek Salvage EA and within the wildlife section on the Biological Assessment/Biological Evaluation/Wildlife Report, that goshawk habitat is abundant on the Beaverhead-Deerlodge National Forest.

Response: The reference cited in the appeal, *Nesting Habitat at Selection and Productivity of Northern Goshawks in West-Central Montana* by Lorraine T. Clough (2000) was considered in the analysis on northern goshawk (EA, pp. 64 to 67). The study was done to obtain an estimate of a number of factors associated with nest-site selection and quantification of nesting habitat at various spatial levels, and productivity of nesting attempts. The study focuses on the characteristics and use of habitat by goshawks rather than quantifying the abundance of goshawk habitat on the Beaverhead-Deerlodge National Forest.

In addition to research by Clough, the biologist considered a number of other studies which are referenced throughout the goshawk analysis in the EA and wildlife biological evaluation. The EA (p. 64) states, "Based on habitat and goshawk detection estimates, breeding goshawks and their habitat appear abundant and well distributed across R1 (Kowalski 2006, Samson 2006a). Each National Forest appears to have more than enough habitat to maintain a minimum viable population of goshawks (Samson 2006b)".

The EA noted "potential nest area habitat is less likely to occur in the western portion of the burn perimeter because of elevations above 7,000 feet and associated vegetation changes from Douglas-fir toward spruce/fir forests. Clough (2000) found goshawk nesting in lodgepole pine, Douglas-fir, and mixed conifer forests in Montana between 5,000 and 6,600 feet".

On the BDNF, potential goshawk habitat from the Northern Region viability model is estimated as 53,685 acres of nesting habitat, 363,593 acres of PFA habitat, and 976,089 acres of foraging habitat (Bush et al., 2008). Model output suggests that the critical habitat threshold for goshawk viability in the Northern Region is 30,147 acres (Samson 2006a). Samson's evaluation indicates that existing goshawk habitat is not limiting viability at the scale of the Forest or the Region.

Another researcher, whose work is cited in the appeal attachment, Dr. Jack Kirkley "visited Maybee Meadows and Maybee Ranch nest sites in 2008 and determined that previously existing nests were gone, and nest stands were no longer suitable for nesting because of the loss of canopy and green trees associated with the fire. Vegetation conditions in the 40-acre nest areas has changed from dense closed canopy forest suitable for nesting, to standing dead snags or dying trees soon to have an open canopy, which is not suitable nesting habitat" (EA p. 65).

Both the EA and wildlife BE, analyzed existing habitat using Silc 3 vegetation data provided as a dataset for the project, known goshawk observation data available from the Montana Natural Heritage Program, a GIS review of available habitat, and on-site field visits verifying post-burn vegetation conditions. Of the 26,600 acre wildfire perimeter, approximately 2,548 acres (9.5 percent) have forested habitat conditions favorable as potential post-fledging areas (PF D1-26, p. 74).

In addition to a review of available research and existing data, salvage harvest units and adjacent areas in the vicinity of previously active goshawk nest sites were surveyed in June and July, 2009, by the district wildlife biologist and field survey crew. No active nest stands were located (EA, p. 65).

The issue was also addressed by the Forest in their response to comments regarding goshawk territories and habitat conditions (EA, p. E-48). It states, "vegetation in nest areas and the PFAs *(post-fledging family areas)* central to a goshawk territory varies, but is correlated to relative continual forest canopy. Published research (Clough 2000) found areas of continuous forest surrounding the nest site out to a variety of distances, such as 981 feet in west central Montana. Similarly, Samson 2006a; Squires and Kennedy 2006, found that mid- to late-seral forest with > 50% canopy cover and structural diversity in the understory appear important at the PFA scale. The natural effects of wildfire have been to reduce the forest canopy well below that preferred by goshawk, and to reset stands to early seral stages not suitable as nest areas or PFAs".

Potential impacts of the salvage harvest were considered by the Acting Forest Supervisor in reaching his decision (DN p. 9). The EA clearly says goshawk habitat was lost in the wildfire and that the removal of burned mature trees would not affect existing nesting sites "since proposed treatments occur in stands where approximately 50 percent or more tree mortality occurred. These stands no longer function as nesting habitat" (EA, p. 65).

Based on the documentation provided in the EA and the wildlife BE, the analysis is consistent with NEPA, appropriately considers science relevant to both the species and local habitat conditions, and meets the Forest Plan Standard for mitigating effects to goshawk.

RECOMMENDATION

I have reviewed the record for each of the contentions addressed above and have found that the analysis and decision adequately address the issues raised by the appellants. I recommend the Forest Supervisor's decision be affirmed. I also recommend the appellants' requested relief be denied.

/s/ Julie K. King
JULIE K. KING
Appeal Reviewing Officer

cc: Dave Myers
Peri R Suenram
Ray G Smith